

Application No.: 10/674,622

Docket No.: 66205-0001

REMARKS

Applicant has reviewed the detailed Office Action mailed May 21, 2004 and thanks Examiner Szumny for his review of the same. Claims 1-10 were rejected. Claims 1-7, 9 and 10 have been amended. These claims have been amended without adding new matter. Thus, claims 1-10 will be pending upon entry of this amendment. Applicant requests reconsideration of the pending claims in view of the above amendments and the following remarks.

I. Specification

The abstract has been amended in light of informalities noted by the Examiner. Applicant respectfully requests withdrawal of the objection.

II. Claim Rejections - 35 USC §112

Claims 5 and 6 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. More specifically, the Examiner cites insufficient antecedent basis for the terms "said affixing layer", "said first opening" and "said second opening." Applicant has amended the claims to correct the informalities noted by the Examiner. Withdrawal of the rejection is respectfully requested.

III. Claim Rejections – 35 USC §102

Claims 1-4 and 7-10 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 5,655,673 to Weterrings et al. Applicant respectfully traverses the rejection.

Weterrings et al. does not disclose a bottle retainer having a plurality of generally horizontal rigid arms that form unobstructed openings that are adapted to slidably receive the bottle, while engaging the cover to support the bottle within the opening, as presently claimed by the applicant. In contrast, Weterrings et al. discloses a rack with a plurality of clips to hold cylindrical containers. The clips include a pair of curved resilient arms (Col. 2, line 65, *see also* Fig 4) that have projections on the inner surface of the arms (Col. 2, line 3, *see also* Fig 4). The distinct semi-cylindrical holder formed by the curvature of the clip arms (Col. 2, line 65, *see also* Fig 4) inherently prevents bottles or jars from being *slidably* inserted or removed from the clips.

Docket No.: 66205-0001

Application No.: 10/674,622

The slidability of the bottles or jars is prevented further in Weterrings et al. by the projections on the inner surface of the clip arms. Accordingly, claims 1 and 8 are patentable over the applied art. In addition, dependent claims 2-4, 7, 9 and 10 are also patentable over the applied art because they depend from an allowable claim. Applicant respectfully requests the withdrawal of the rejection.

Claims 1, 2 and 5 were rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent number 2,921,690 to Smith et al. Applicant respectfully traverses the rejection.

Smith et al. does not disclose a bottle retainer capable of receiving a bottle from a vertical direction, as permitted by the present invention as now claimed. Conversely, Smith et al. discloses a bracket with upper and lower plates that are attached to one another by a connecting portion on the front side of the bracket assembly (Col. 2, lines 12- 18, *see also* Figs. 2 and 3). The upper plate clearly prevents any vertical insertion or removal from the bracket. Accordingly, claim 1 is patentable over the applied art. In addition, defendant claims 2 and 5 are also patentable over the applied art because they depend from an allowable claim. Applicant respectfully requests the withdrawal of the rejection.

Claims 1, 2 and 6 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent number Des. 262,504 to Flynn. Applicant respectfully traverses the rejection.

Flynn does not disclose a bottle retainer with generally horizontal, substantially parallel arms. Flynn discloses an ornamental design for an instrument holder wherein one of the holding apertures has a generally cylindrical shape. Accordingly, for at least this reason, claim 1 is patentable over the applied art. Moreover, defendant claims 2 and 6 are also patentable over the applied art because they depend from an allowable claim. Applicant respectfully requests the withdrawal of the rejection.

Docket No.: 66205-0001

Application No.: 10/674,622

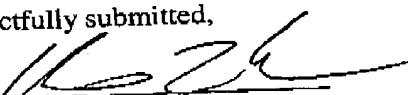
CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 66205-0001 from which the undersigned is authorized to draw.

Dated: August 26, 2004

Respectfully submitted,

By 
Kristin L. Murphy

Registration No.: 41,212
RADER, FISHMAN & GRAUER PLLC,
39533 Woodward Avenue, Suite 140
Bloomfield Hills, Michigan 48304
(248) 594-0647
Attorney for Applicant

R0260429.DOC